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12  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA

15 JESSE RANDLE, on behalf of himself and others )  
 similarly situated, )

16 Plaintiff, )

17 v. )

18 NETFLIX, INC., and WALMART.COM USA LLC, )

19 Defendants. )  
 20 )  
 21 )  
 22 )  
 23 )  
 24 )  
 25 )  
 26 )  
 27 )  
 28 )

Civil Action No. CV-09-00962-MEJ

**ADMINISTRATIVE MOTION TO  
 CONSIDER WHETHER CASES  
 SHOULD BE RELATED**

1           **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2           PLEASE TAKE NOTICE that Defendant Walmart.com USA LLC (“Walmart.com”)  
3 submits this Administrative Motion to relate *Randle v. Netflix, Inc.*, Case No. CV-09-00962-MEJ  
4 (“*Randle*”), filed on February 17, 2009 in the Superior Court of the State of California in and for  
5 the County of Santa Clara, and removed on March 5, 2009 to the United States District Court for  
6 the Northern District of California, to the cases listed in Section I pursuant to Local Civil Rule 3-  
7 12.

8           **I.       RELATED CASES**

9           Please see Exhibit 1 (“Related Cases”) to the Declaration of Kathryn P. Hoek in Support of  
10 Walmart.com’s Administrative Motion to Consider Whether Cases Should be Related (“Hoek  
11 Decl.”).

12          **II.     RELATIONSHIP OF THE ACTIONS**

13          The *Randle* case involves substantially the same parties, transactions, and events as those  
14 at issue in the earliest-filed case, *Resnick v. Walmart.com USA LLC*, CV-09-0002-PJH (“*Resnick*”)  
15 and the Related Cases: specifically, an alleged agreement between Netflix, Inc. and Walmart.com  
16 “to divide the markets for the sales and online rentals of DVDs in the United States . . . , with the  
17 specific purpose and intended effect of monopolizing and otherwise unreasonably restraining trade  
18 in the online DVD rental market.” Hoek Decl., Ex. 2 (*Randle* Compl.) ¶ 1. Plaintiff Randle seeks  
19 to assert claims for alleged antitrust violations under California’s Cartwright Act, Cal. Bus. &  
20 Prof. Code §§ 16720, 16727. The Plaintiffs in the Related Cases seek to assert claims for alleged  
21 antitrust violations under the Sherman Act, 15 U.S.C. §§ 1 and 2.

22          Plaintiff Randle seeks to represent a putative class that is entirely encompassed by the  
23 putative classes in *Resnick* and the Related Cases. Plaintiff Randle seeks to represent a putative  
24 class of “[a]ll residents of California who paid a ‘subscription fee’ to Netflix to rent DVDs online  
25 after May 19, 2005 up to the present.” Hoek Decl., Ex. 2 ¶ 19. Plaintiffs in the *Resnick* action  
26 seek to represent a putative class made up of “[a]ny person the United States that paid a  
27 subscription fee to Netflix to rent DVDs, on or after May 19, 2005 up to the present.” Hoek Decl.,  
28 Ex. 3 (*Resnick* Compl.) ¶ 55.

1 Relating these cases will help eliminate duplicative discovery, prevent inconsistent pretrial  
2 rulings, and conserve the resources of the parties, counsel, and this Court.

3 **III. CONCLUSION**

4 *Randle* and the Related Cases satisfy the criteria of Local Civil Rule 3-12. Therefore,  
5 Walmart.com respectfully requests that *Randle* be deemed related to the cases listed in Section I  
6 and be assigned to the Honorable Phyllis J. Hamilton.

7  
8 Dated: March 12, 2009

Respectfully submitted,

9 SUSMAN GODFREY L.L.P.

10  
11 By: /s/ Kathryn P. Hoek

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